

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 16392 of 2002

Between:

J.Prabhakar Rao

S/o Ranganayakulu, Hindu, aged

50 years, Transport business, Main Road,

Ichapuram, Srikakulam District.

..... PETITIONER

AND

1. The State Transport Appellate Tribunal,

A.P. Hyderabad by its residing Officer,

Manoranjan Complex, Near Ajantha Gate of

Exhibition grounds, Mojahamjahi Road,

Hyderabad.

2. The Joint Transport Commissioner and

Secretary, State Transport Authority,

A.P. Burgula Ramakrishna Rao Office Complex,

Tank Bund, Hyderabad.

3. The A.P.S.R.T.C, rep. By its Vice Chairman and
Managing Director, Musheerabad, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction, one in the nature of Writ of Certiorari by calling for the records from the file of the 1st respondent in A.P. No. 61 of 2002 and quash its order dated 5.7.2002, confirming the order of the 2nd respondent dated 09.04.2002 in R.No.15178/E1/2001, with a direction to the 2nd respondent to grant a temporary stage carriage permit to the petitioner, on the inter-state route Sompeta to Varanasi via Madasa, Garabanda and Parlakhimundi.

Counsel for the Petitioner: MR.T.VENKATA RAMANA

Counsel for the Respondents 1 and 2: GP FOR TRANSPORT

Counsel for the Respondent No.3: Mr K.Srinivasa Rao, Standing Counsel for APSRTC

The Court made the following:

ORDER:

1. The petitioner applied for a temporary permit on the inter-State route Sompeta to Varnasi, covered by an inter-State agreement between the States of Andhra Pradesh and Orissa. One Smt Samanthakamani was an existing holder of a pucca stage carriage permit on the said inter-State route. Smt Samantakamani stopped the operation of her bus on the route, for want of renewal of her permit. The petitioner therefore, made an application dated 05.10.2001 for grant of a temporary permit for a period of four months or for renewal of the permit granted to Smt Samantakamani, whichever is earlier. By the proceedings dated 09.04.2002, the competent authority, the second respondent rejected the petitioner's application on the ground that as he is not an existing operator and he cannot therefore, be granted a permit in contravention of the conditions of the approved schemes operating on the route. Aggrieved, the petitioner preferred an appeal A.P. No.61 of 2002, which was also rejected by the first respondent-appellate tribunal and thereby is he before this Court.

2. Sri T. Venkata Ramana, learned counsel for the petitioner would contend that Section 87 of the M.V. Act, 1988 enables grant of temporary permits in the circumstances enumerated in clause [a] to [d] of Sub Section (1) of Section 87.

3. Qua, clause (d) temporary permits i.e. permits effective for a limited period not exceeding four months could be granted, pending decision on an application for renewal of a permit. On a true and fair construction only of clause (d) of Sub Section (1) of

Section 87, the petitioner must be considered as qualified for applying for a temporary permit, in the circumstances namely Smt Samantakamani being unable to ply her bus pending consideration of her renewal application for a pucca stage carriage permit on the inter-State route. But the petitioner is disentitled for grant of a permit for another valid reason namely that the notified schemes on the route prohibit the grant of a fresh stage carriage permit except by way of renewal to an existing operator. Admittedly, the petitioner is not an existing operator on the route Sompeta to Varanasi. He is a new applicant seeking a fresh permit, though as a temporary measure. Therefore, if he is disentitled to apply for a regular permit on account of the conditions of the notified scheme, the petitioner would be equally disqualified for grant of a temporary permit, since eligibility for operating on the route in conformity with the notified scheme is the sine quo non for grant of permit whether

permanent or temporary.

4. The legislative intent underlying the prohibitions in the notified scheme, prohibit grant of permit to any person other than an existing operator is intended to achieve a balance between the interests of the State Transport Undertaking which is granted exclusive right to ply on the notified route, without let or hindrance by private operators as per the conditions of the notified scheme with the interests of existing operators. This legislative purpose cannot be subverted by permitting new entrants to ply on the route under the façade of a temporary permit.

5. On the above analysis, this Court finds no error either in the application of law or discretion by the primary or appellate authority, warranting interference. There are no merits in the Writ Petition.

6. Accordingly, the Writ Petition is dismissed. No costs.

22-11-2004

kvrn

To

1. The Presiding Officer, The State Transport Appellate Tribunal,
A.P. Manoranjan Complex, Near Ajantha Gate of
Exhibition grounds, Mojahamjahi Road,
Hyderabad.

2. The Joint Transport Commissioner and
Secretary, State Transport Authority,
A.P. Burgula Ramakrishna Rao Office Complex,
Tank Bund, Hyderabad.

3. The Chairman and Managing Director, The A.P.S.R.T.C,
Musheerabad, Hyderabad.

4. 2 CC to GP for Transport, High Court Building, Hyderabad
(OUT)

5. 2 CD copies.